

S.L. No. 50

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO. 108/2020/EZ

In the mater of:

Ankur Sharma

.....Applicant

Versus

The State of West Bengal & Ors.

.....Respondents

**AFFIDAVIT-IN-REJOINDER ON BEHALF OF THE APPLICANT
TO AFFIDAVIT ON BEHALF OF RESPONDENT NO. 10 DATED
08.02.2022.**

SL.	PARTICULARS	ANNEXURE	PAGE
1.	Rejoinder		



Ankur Sharma

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(Applicant in person)
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07 MAY 2022

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**AFFIDAVIT-IN-REJOINDER ON BEHALF OF THE APPLICANT
TO AFFIDAVIT ON BEHALF OF RESPONDENT NO. 10 DATED
08.02.2022.**

I, Ankur Sharma, the Applicant aged about 25 years by occupation Advocate residing at 13/3, Dr. P.K. Banerjee Road, Howrah - 711101 do hereby solemnly affirm and state as under :

1. I am the Applicant in the abovementioned Original Application. I have read the Affidavit on behalf of Respondent No. 10, and I am making the present Affidavit in Rejoinder thereto. I repeat, reiterate and confirm everything stated in the abovementioned Original Application and submit that the same be treated as part hereof.
2. I deny the contents, allegations and averments made in the Affidavit on behalf of Respondent No. 10 (hereinafter for the sake of brevity referred to as the 'said Affidavit') that are contrary to and/or inconsistent with anything stated in the abovementioned Original Application and the present Affidavit in Rejoinder.

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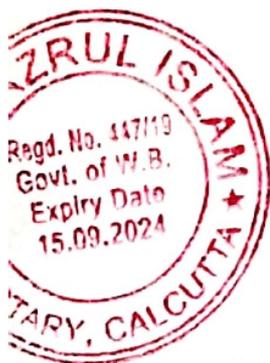
3. At the outset, I say that the West Bengal Inland Fisheries Act, 1984 also bars filling of any water area, notwithstanding whether such water area is recorded as water body/doba or tank in the land records. Section 17A of the West Bengal Inland Fisheries Act, 1984 which reads as follows :

“17A. Bar to conversion of water area etc. for other use.—(1) No person shall —

(a) put any water area including embankment measuring 5 cottahs or 0.035 hectare or more, which is capable of being used as fishery, or any naturally or artificially depressed land holding measuring 5 cottahs or 0.035 hectare or more, which retains water for a minimum period of six months in a year, to such use, other than fishery, as may result in abolition of fishery, or

(b) fill up any water area including embankment or naturally or artificially depressed land holding as aforesaid, with a view to converting it into solid land for the purpose of construction of any building thereon or for any other purpose, or

(c) divide any water area including embankment or naturally or artificially depressed land holding as aforesaid into parts so as to make any such part measure less than 5 cottahs or 0.035 hectare for any purpose other than pisciculture or transfer any part of any such water area including embankment or



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naturally or artificially depressed land holding as so divided to any other person”

4. I shall now deal with the Affidavit in seriatim :
5. As regard paragraph nos. 1 and 2 of the said Affidavit I state that the same does not require any comments.
6. As regard paragraph no. 3, 3(i) and 3 (ii) of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On contrary I say that it is an admitted fact that there was a brick wall constructed in order to divide the water body recorded in Dag no. 92 which itself is sufficient to prove destruction caused to the said water body. The entire construction has been carried on to encroach and fill the said water body.
7. As regard paragraph 3 (iii), (iv), (v) and (vi) of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On contrary, I say that it is an admission of the fact that construction has been made on the embankment of the water body. The deponent tried to shift the onus of polluting the said water body upon third party whose identity was not disclosed/suppressed for vested interest. The allegation of the deponent that the petitioner has approached this Hon'ble Tribunal with ulterior motive has not been explained or disclosed. Hence, denied.
8. As regard paragraph 3 (vii) of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On contrary, I say that construction on dag no. 101 which is a water body has been proved in the satellite images annexed with Original Application.
9. As regard paragraph 3 (viii) and (ix) of the said Affidavit I deny and dispute all denials, contentions, averments made therein



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save and except what are matters of records. On contrary, I say that the statements have been made therein to back and support the committee report which is merely a desk work showing apathy towards the flouters.

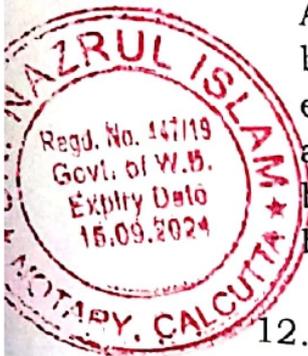
10. As regard paragraph 3 (x) of the said Affidavit I say that the same are their own problems and adds no value to the adjudication of the instant Original Application.

11. As regard paragraph 3 (xi) of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On contrary, I say that the satellite images annexed with the Original Application clearly depict the encroachment of the water bodies. The inspection was conducted much later after the encroachments were made, however, the inspection team was able to identify the construction raised upon one of the water body which was done to ultimately fill up the entire water body.

12. As regard paragraph 4 and 5 of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On Contrary I say that there is nobody so fool who will continue water body filling work on the date of inspection by a committee appointed by the Hon'ble Tribunal.

13. As regard paragraph 6 of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On contrary, I say that it has never been alleged that the entire project is being constructed on a water body. Satellite images reveal encroachment and filling of water bodies in and around the said project.

14. As regard paragraph 7 of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On contrary, I say that as I stated in the foregoing paragraph I repeat and reiterate that alleged act of demolition of the wall in dag no.



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92 itself proves enough damage to the water body which was allowed to exist until the committee directed to do the same and such demolition does not absolve the flouters of causing damage to the water body.

15. As regard paragraph 8 of the said Affidavit I say that the water body after being encroached has been severely neglected by the owners as such the entire water body is covered with water hyacinth which is degrading the ecology of the said water body.

16. As regard paragraph 9, 10, 11 of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On contrary, say that after filling portions of the water body they have surrounded it with bamboo poles.

17. As regard paragraph 12 of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records because in the inspection report it was categorically admitted that water body existed.

18. As regard paragraph 13, 14, 15 and 16 of the said Affidavit I deny and dispute all denials, contentions, averments made therein save and except what are matters of records. On contrary, I say that by mere filing an application for conversion the project proponent started construction activities which is wholly illegal.

In view of what is stated herein above, I humbly pray before this Hon'ble Tribunal to do justice to this Applicant.

Solemnly affirmed at Kolkata

On this 5th day of May, 2022

Solemnly Affirmed and
Declared before me U/S 739
CPC, U/S 297 (C) CrPc

Notary

Sr. Nazrul Islam
Notary, Govt. of W.B.
Regd. No. 447/19
City Civil Court, Calcutta

Arsh Sharma
Applicant

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VERIFICATION

I, Ankur Sharma, the abovenamed Applicant do hereby verify that the contents of the above Affidavit in Rejoinder are true and correct to the best of my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at Kolkata on this day of 5th May, 2022.

Ankur Sharma
Applicant

